

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RICKEY A. MASSEY,

Plaintiff,

V.

MICHAEL J. ASTRUE, Commissioner of  
Social Security,

Defendant.

Case No. 11-5257 BHS-KLS

## REPORT AND RECOMMENDATION

MICHAEL J. ASTRUE, Commissioner of  
Social Security,

This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule MJR 4(a)(4) and as authorized by Mathews, Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on the stipulated motion for remand. (ECF #23). After reviewing the parties' stipulated motion and the remaining record, the undersigned recommends that the Court grant the parties' motion, and remand this matter to the Commissioner for further proceedings.

This Court recommends that on remand to the Commissioner of Social Security, the Appeals Council will remand this case to the Administrative Law Judge (ALJ) to:

1. Hold a de novo hearing;
2. Issue a new decision;
3. Resolve the apparent conflict of interest arising from the medical expert testimony of Arthur L. Lewy, Ph.D., given his concurrent work for DDS and the Center for Disability; and

1           4. Re-assess medical source evidence as necessitated by the resolution of the  
2           preceding issue with the assistance of an impartial medical expert who does not  
3           work for the State Agency.

4           Plaintiff may also present new arguments and further evidence, if such evidence becomes  
5           available.

7           The parties stipulate that this case be reversed and remanded to the ALJ on the above  
8           grounds pursuant to sentence four of 42 U.S.C. § 405(g). The parties agree that reasonable  
9           attorney fees and costs will be awarded under the Equal Access to Justice Act, 28 U.S.C. sec.  
10           2412(d), upon proper request to the Court.

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12           Given the fact of the parties' stipulation, the Court recommends that the District Judge  
13           immediately approve this Report and Recommendation and order the case **REVERSED** and  
14           **REMANDED**. A proposed order accompanies this Report and Recommendation.

15           DATED this 26th day of October, 2011.

17             
18           Karen L. Strombom  
19           United States Magistrate Judge